

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PHILLIP NORRIS,

Plaintiff,

v.

9:06-CV-0397  
(DNH)(GHL)

DOCTOR LESTER N. WRIGHT, Chief Medical Officer,

Defendant.  
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APPEARANCES:

OF COUNSEL:

PHILLIP NORRIS

Plaintiff, *pro se*

96-A-7589

HON. ANDREW M. CUOMO

CHRISTINA L. ROBERTS-RYBA, ESQ.

Office of the Attorney General

State of New York

Department of Law

The Capitol

Albany, New York 12224

GEORGE H. LOWE, U.S. Magistrate Judge

**DECISION and ORDER**

Presently before the Court is a Motion to Compel Discovery filed by Phillip Norris ("Norris"). Docket No. 36. Defendant opposes the Motion. Docket No. 37. At the time Plaintiff commenced this action he was incarcerated. However, the docket reflects that Plaintiff was released from custody on or about July 11, 2007. Dkt. No. 29.

In his Motion, Plaintiff seeks to compel responses to a set of discovery demands he served on January 9, 2008.<sup>1</sup> Those discovery demands, which in number total four (4) demands, sought the production of documents and video tapes for Plaintiff's inspection. *Id.* The caption of the Demands

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<sup>1</sup>The Demands are annexed to Defendant's opposition papers. Dkt. No. 37.

references Rule 26 of the Federal Rules of Civil Procedure, not Rule 34. *Id.* There is no further reference to the Federal Rules of Civil Procedure in Plaintiff's Demands. *Id.*

Defendant opposes the Motion on the sole basis that this case is exempt from the mandated disclosures requirements of Rule 26, pursuant to Rule 26(a)(1)(B)(iv). However, Plaintiff, who is appearing *pro se*, seeks responses to four (4) specific demands, tailored to the allegations at issue in this case, that are proper pursuant to Rule 34.

Accordingly, Plaintiff's discovery demands dated January 9, 2007, Annexed to Docket No. 37 as part of Exhibit A, shall be deemed Demands for Documents and Electronically Stored Information, served pursuant to Rule 34 as of the entry date of this Order. Defendants shall provide all responsive documents to Plaintiff, at no cost or fee, within thirty (30) days from the entry date of this Order. Further, Defendants shall make all responsive video tapes or other electronically stored information, that is responsive to Plaintiff's demands, available to Plaintiff at a mutually agreeable time and location, within 30 days from the entry date of this Order.

WHEREFORE, it is hereby

ORDERED, that Plaintiff's Motion to Compel Discovery is granted to the extent set forth herein. Plaintiff's Demands, dated January 9, 2007, Annexed to Docket No. 37 as part of Exhibit A, shall be deemed to have been served pursuant to Rule 34 as of the entry date of this Order, and it is further

ORDERED, that Defendants shall provide copies of all responsive documents to Plaintiff, at no cost or fee, within thirty (30) days from the entry date of this Order. Further, Defendants shall make all responsive video tapes or other electronically stored information that is responsive to Plaintiff's demands, available for Plaintiff's review, at a mutually agreeable time and location,

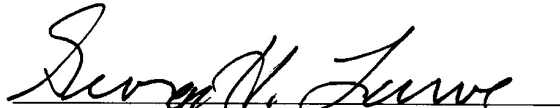
within 30 days from the entry date of this Order, and it is further

ORDERED, that the discovery deadline is reset to May 23, 2008 and the motion to compel filing deadline is reset to June 13, 2008. The dispositive motion filing deadline remains August 15, 2008, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 25, 2008  
Syracuse, New York

  
George H. Lowe  
United States Magistrate Judge